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Before the  
 FEDERAL COMMUNICATIONS COMMISSION  
 Washington, D.C.

In the Matter of

Price Cap Performance Review  
 for Local Exchange Carriers

DISPATCHED BY

CC Docket No. 94-1

**ORDER**

Adopted: January 16, 1996; Released: January 16, 1996

By the Chief, Common Carrier Bureau:

1. In September 1995, the Commission released two further notices of proposed rulemaking seeking comment on price cap regulation of local exchange carriers (LECs).<sup>1</sup> The *Pricing Flexibility Notice* seeks comment on proposed changes to the LEC price cap plan that would respond to changes in the market for interstate access services and would rely more heavily on market forces to achieve the Commission's public policy goals. Among other things, the Commission asked for comment on proposed changes that would make it easier for LECs to introduce new services and would grant LECs increased pricing flexibility. In the *X-Factor Notice*, the Commission solicited comment on a number of issues regarding the long term price cap plan. In particular, it sought comment on the following: (a) the productivity offset, or X-Factor, used to set the price index, including calculation of the X-Factor, and whether the X-Factor should be reviewed and modified periodically or set on a permanent basis; (b) the number of X-Factors to be included in the price cap plan, and the sharing requirements, if any, to be associated with each X-Factor; (c) the common line formula, and (d) the exogenous cost rules.

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<sup>1</sup> Price Cap Performance Review for Local Exchange Carriers, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393 (rel. Sept. 20, 1995) (*Pricing Flexibility Notice*); Price Cap Performance Review for Local Exchange Carriers, Fourth Further Notice of Proposed Rulemaking, CC Docket No. 94-1, FCC 95-406 (rel. Sept. 27, 1995) (*X-Factor Notice*). There was another further notice of proposed rulemaking regarding price cap regulation released in September 1995, but the pleading cycle for comments filed in response to that notice is not affected by this Order. Price Cap Performance Review for Local Exchange Carriers, Second Report and Order and Third Further Notice of Proposed Rulemaking, 10 FCC Rcd 11098 (1995) (*Video Dialtone Notice*).

2. Comments in response to the *Pricing Flexibility Notice* were originally due on November 20, 1995, with replies due on December 20, 1995. Comments in response to the *X-Factor Notice* were originally due on November 27, 1995, with replies due on December 27, 1995. The Common Carrier Bureau (Bureau) granted a motion for extension of time for certain specific issues in the *Pricing Flexibility Notice* that were related to X-Factor issues, so that comments were due on November 27, 1995, and replies were due on December 27, 1995. Comments were due on December 11, 1995, and replies were due on January 10, 1996, with respect to the other issues discussed in the *Pricing Flexibility Notice*.<sup>2</sup> Later, the Bureau granted another motion for extension of time to file comments in response to the *X-Factor Notice*, and also further extended the time for filing comments with respect to certain issues in the *Pricing Flexibility Notice*.<sup>3</sup> Comments on most of the issues discussed in the *Pricing Flexibility Notice* were due on December 11, 1995, and replies were due January 10, 1996. Comments responsive to the *X-Factor Notice*, and certain specified portions of the *Pricing Flexibility Notice* related to X-Factor issues, were due on December 18, 1995, and replies were due January 17, 1996. The Commission later issued a public notice requiring all documents due to be filed with the Commission during the time it was closed in December 1995 and January 1996 due to a lapse in funding or for weather emergencies, to be filed on January 16, 1996.<sup>4</sup>

3. On January 11, 1996, the Customers for Access Rate Equity (CARE) filed a motion for extension of time to file replies in response to the *Pricing Flexibility Notice*, from January 10 to February 13, 1996.<sup>5</sup> CARE asserts that the comments filed on December 11 were voluminous, and many comments contained economic studies or other supporting information. CARE also maintains that the Christmas-New Year's holiday period and severe winter storms in the Northeastern portion of the country have made it burdensome to respond adequately to

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<sup>2</sup> Price Cap Performance Review for Local Exchange Carriers, Order on Motion for Extension of Time, CC Docket No. 94-1, DA 95-2340 (rel. Nov. 13, 1995) (*First Extension of Time Order*).

<sup>3</sup> Price Cap Performance Review for Local Exchange Carriers, Order on Motion for Extension of Time, CC Docket No. 94-1, DA 95-2361 (rel. Nov. 21, 1995) (*Second Extension of Time Order*).

<sup>4</sup> The Commission was closed from December 18, 1995 through January 5, 1996, due to the lapse in funding, and on January 8, 9, 10, and 12, 1996, as a result of the weather emergency. Public Notice, Procedures for the Filing of Documents that were Due During the Government Shutdown or During the Weather Emergency, DA 96-2 (rel. Jan. 11, 1996).

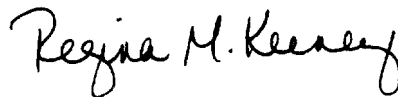
<sup>5</sup> CARE is a coalition comprised of interexchange carriers, trade associations and other private representatives of business and residential telecommunications customers, and governmental organizations representing telecommunications consumer interests. CARE Motion at 1-2.

those comments under the current schedule.<sup>6</sup> CARE also argues that closing the Commission as a result of the lack of appropriations has further impacted the parties' ability to prepare reply comments.<sup>7</sup> CARE also anticipates requesting an extension of time to file reply comments in response to the *X-Factor Notice*.<sup>8</sup>

4. Although it is the policy Commission that extensions of time are not routinely granted,<sup>9</sup> in light of the important issues presented in this proceeding and to allow parties to submit comments that are more helpful to the Commission, the Bureau will grant an extension for parties to submit reply comments in response to the *Pricing Flexibility Notice*. We believe, however, that CARE has not justified extending the filing date for these replies to February 13, 1996, but, rather, a deadline for these replies of February 6, 1996 is reasonable. On our own motion, we also reschedule the due date for filing replies in the *X-Factor Notice* proceeding to February 16, 1996. We also grant an extension of time to February 16, 1996, to address the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *Pricing Flexibility Notice*. Thus, the pleading cycle for all X-Factor-related issues will remain the same.<sup>10</sup>

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(j) and 5(c) of the Communications Act, as amended, 47 U.S.C. §§ 154(j), 155(c), and the authority delegated thereunder pursuant to Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, that the motion of the Customers for Access Rate Equity for an extension of time IS GRANTED to the extent indicated herein. Comments in response to the *Pricing Flexibility Notice* and the *X-Factor Notice* shall be FILED by the dates described above.

FEDERAL COMMUNICATIONS COMMISSION



Regina M. Keeney  
Chief, Common Carrier Bureau

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<sup>6</sup> CARE Motion at 3-5.

<sup>7</sup> CARE Motion at 5.

<sup>8</sup> CARE Motion at 5 n.7.

<sup>9</sup> See Section 1.46(a) of the Commission's Rules, 47 C.F.R. § 1.46(a).

<sup>10</sup> *Second Extension of Time Order*, para. 4.